

## Federal Deposit Insurance Corporation

## § 390.85

be prepared solely by an official reporter or by any other person or means authorized by the designated representative. A person who has submitted documentary evidence or given testimony in an investigative proceeding or formal examination proceeding may procure a copy of his own documentary evidence or transcript of his own testimony upon payment of the cost thereof; *provided*, that a person seeking a transcript of his own testimony must file a written request with the designated representative stating the reason he desires to procure such transcript, and said persons may for good cause deny such request. In any event, any witness (or his counsel) shall have the right to inspect the transcript of the witness' own testimony.

### § 390.84 Rights of witnesses.

(a) Any person who is compelled or requested to furnish documentary evidence or give testimony at an investigative proceeding or formal examination proceeding shall have the right to examine, upon request, the order authorizing such proceeding. Copies of such resolution shall be furnished, for their retention, to such persons only with the written approval of the designated representative.

(b) Any witness at an investigative proceeding or formal examination proceeding may be accompanied and advised by an attorney personally representing that witness.

(1) Such attorney shall be a member in good standing of the bar of the highest court of any state, Commonwealth, possession, territory, or the District of Columbia, who has not been suspended or debarred from practice by the bar of any such political entity or before the FDIC in accordance with the provisions of subpart E and has not been excluded from the particular investigative proceeding or formal examination proceeding in accordance with paragraph (b)(3) of this section.

(2) Such attorney may advise the witness before, during, and after the taking of his testimony and may briefly question the witness, on the record, at the conclusion of his testimony, for the sole purpose of clarifying any of the answers the witness has given. During the taking of the testimony of a wit-

ness, such attorney may make summary notes solely for his use in representing his client. All witnesses shall be sequestered, and, unless permitted in the discretion of the designated representative, no witness or accompanying attorney may be permitted to be present during the taking of testimony of any other witness called in such proceeding. Neither attorney(s) for the association(s) that are the subjects of the investigative proceedings or formal examination proceedings, nor attorneys for any other interested persons, shall have any right to be present during the testimony of any witness not personally being represented by such attorney.

(3) The Board of Directors, for good cause, may exclude a particular attorney from further participation in any investigation in which the Board of Directors has found the attorney to have engaged in dilatory, obstructionist, egregious, contemptuous or contumacious conduct. The person conducting an investigation may report to the Board of Directors instances of apparently dilatory, obstructionist, egregious, contemptuous or contumacious conduct on the part of an attorney. After due notice to the attorney, the FDIC may take such action as the circumstances warrant based upon a written record evidencing the conduct of the attorney in that investigation or such other or additional written or oral presentation as the Board of Directors may permit or direct.

### § 390.85 Obstruction of the proceedings.

The designated representative shall report to the Board of Directors any instances where any witness or counsel has engaged in dilatory, obstructionist, or contumacious conduct or has otherwise violated any provision of this part during the course of an investigative proceeding or formal examination proceeding; and the Board of Directors may take such action as the circumstances warrant, including the exclusion of counsel from further participation in such proceeding.